



WILLIAM T FUJIOKA
Chief Executive Officer

County of Los Angeles CHIEF EXECUTIVE OFFICE

713 KENNETH HAHN HALL OF ADMINISTRATION
LOS ANGELES, CALIFORNIA 90012
(213) 974-1101
<http://ceo.lacounty.gov>

January 29, 2008

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**DEPARTMENT OF HEALTH SERVICES: REQUEST FOR APPROVAL OF ONE
PROPOSITION A AGREEMENT FOR PROVISION OF OUTPATIENT
OPHTHALMOLOGICAL SERVICES AT MARTIN LUTHER KING, JR.
MULTI-SERVICE AMBULATORY CARE CENTER
(SUPERVISORIAL DISTRICT 2)
(3 VOTES)**

IT IS RECOMMENDED THAT YOUR BOARD:

1. Make a finding pursuant to Los Angeles County Code section 2.121.420 that the Ophthalmological Services at Martin Luther King, Jr. Multi-service Ambulatory Care Center (MLK MACC) can more feasibly be performed by independent contractors.
2. Approve and authorize the Chair of the Board to sign one Proposition A agreement for the provision of ophthalmological services at MLK MACC substantially similar to Exhibit I (attached) with The Los Angeles Ophthalmology Medical Group, Inc., (LAOMG) effective February 1, 2008 through January 31, 2010 with an annual maximum obligation of \$1,976,208.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTIONS

Approval of this Agreement will ensure the continuation of ophthalmology outpatient clinic and surgical services at MLK MACC. Currently, these services are provided by LAOMG whose contract is slated to expire on January 31, 2008.

Board of Supervisors
GLORIA MOLINA
First District

YVONNE B. BURKE
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

FISCAL IMPACT/FINANCING

The maximum obligation for each 12-month period of the Agreement is \$1,976,208, offset by estimated revenue of \$357,000 for an estimated net County cost of \$1,619,208. Funding is included in the Fiscal Year 2007-08 Final Budget and will be requested in future fiscal years.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

For a number of years, ophthalmology services were provided by a combination of Drew faculty members and County physicians, and also through Drew supplemental agreements and County agreements.

Effective June 30, 2007, Drew's medical school affiliation agreement with the County ended, resulting in the lapse of these services from July 1, 2007 through July 30, 2007. During this lapse period, a County physician provided only the most critical clinic, inpatient, and emergency ophthalmological services. The Department of Health Services (DHS or Department) obtained a Purchase Order (PO) to secure the services of LAOMG to supplement the services being provided by County staff.

On September 25, 2007, the Board approved a Proposition A agreement (County Contract No. 76356) with LAOMG for the provision of ophthalmology services at MLK MACC effective upon Board approval through November 30, 2007, with an optional one month extension through December 31, 2007 with a maximum obligation of \$298,800. The approved Agreement was a short-term arrangement with limited services to provide basic eye care services for the most critical needs while DHS completed an expedited Request For Information (RFI) to determine whether alternative service providers would be able to provide ophthalmology services at MLK MACC.

On December 18, 2007, the Board approved Amendment No. 1 to the Ophthalmology Clinic and Surgical Services Agreement (County Contract No. 76356) with LAOMG to extend the term of the Agreement for one month, effective January 1, 2008 through January 31, 2008, at no additional County cost. The Amendment allowed the continuation of ophthalmology outpatient clinic and surgical services at MLK MACC while DHS completed contract negotiations for a new Agreement.

Under the recommended Agreement, LAOMG will provide the full range of outpatient clinical and surgical ophthalmology services, including the diagnosis and treatment of cornea and external disease, cataracts, glaucoma, and medical retina disease, as well as the provision of oculoplastic procedures, pediatric ophthalmology, neuro-ophthalmology, and general ophthalmology, at MLK MACC. The services will be provided in the subspecialty ophthalmology clinics. In addition, the contractor will perform outpatient surgical procedures at an available County facility. Once the MLK MACC obtains licensure

for outpatient surgery, the surgical services will be provided at the MLK MACC. Further, the contractor will have an office administrator responsible for managing the operations of the ophthalmology clinic.

As in the individual physician agreements, the County will provide to LAOMG defense and malpractice indemnification for direct patient care provided to County patients under this contract.

Finally, the Department is asking that your Board make a finding, pursuant to Los Angeles County Code section 2.121.420, that these physician services can more feasibly be performed by an independent contractor.

The Agreement may be terminated by the contractor upon 180-calendar day advance written notice to County. County may terminate the Agreement upon a 30-calendar day advance written notice to the contractor. Furthermore, the Agreement would be concurrently terminated on the date the County transfers the management or operation of MLK MACC, by sale or management contract.

Attachment A provides additional information.

County Counsel has reviewed and approved Exhibit I, as to use and form.

CONTRACTING PROCESS

On October 15, 2007, DHS released an RFI for Ophthalmology Services at MLK MACC. The RFI was advertised in local newspapers and on the L.A. County Online and DHS websites. Additionally, a notice of the RFI was sent directly to 13 prospective providers. By the October 29, 2007, deadline to submit responses to the RFI, only LAOMG submitted a response. As a result of the RFI, LAOMG is being recommended for a contract to continue providing ophthalmology services at MLK MACC.

The Department determined that these physician services are subject to the terms of Proposition A; however, the Proposition A ordinance now permits contracting for physician services upon a determination that the use of an independent contractor is more feasible than the use of County employees. There is currently inadequate capacity among County physicians to provide this care. Based on the fact that LAOMG is an experienced local physician group and there is difficulty in recruiting physicians to provide such services in this geographical area, the use of an independent contractor in this case is more feasible than using County physicians. Accordingly, the Department is requesting that your Board find that the use of a contracted physician group is more feasible than using County physicians.

Honorable Board of Supervisors
January 29, 2008
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IMPACT ON CURRENT SERVICES (OR PROJECTS)

Approval of this Agreement will permit the Department to provide vital ophthalmology services and ensure continuity of care for MLK MACC patients.

CONCLUSION

When approved, DHS requires three signed copies of the Board's action.

Respectfully submitted,



WILLIAM T FUJIOKA
Chief Executive Officer

WTF:SRJ
SAS:LT:bjs

Attachments (2)

c: County Counsel
Director and Chief Medical Officer, Department of Health Services

012908_DHS_Ophthalmology

SUMMARY OF BOARD LETTER

1. Type of Service:

Ophthalmology services at Martin Luther King, Jr. Multi-Service Ambulatory Care Center (MLK MACC)

2. Address and Contact Person:

The Los Angeles Ophthalmology Medical Group
3737 Martin Luther King, Jr. Boulevard, Suite 401
Lynwood, California 90262
Attention: Richard Casey, M.D., President and Chief Executive Officer
Telephone/Fax: (310) 669-8845/(310) 669-8846

3. Term:

Effective February 1, 2008 through January 31, 2010.

4. Financial Information:

The maximum obligation for each 12 month period of the Agreement is \$1,976,208, offset by estimated revenue of \$357,000 for an estimated net County cost of \$1,619,208. Funding is included in the Fiscal Year 2007-08 Final Budget and will be requested in future fiscal years.

5. Accountable for Program Monitoring:

MLK MACC Administration

6. Primary Geographic Area to be Served:

2nd District

7. Approvals:

MLK-MACC Administrator: Antionette Smith Epps

Contracts and Grants Division: Cara O'Neill, Chief

County Counsel: Anita Lee, Principal Deputy

Contract No. _____

OPHTHALMOLOGY CLINIC AND SURGICAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this _____ day
of _____, 2008,

by and between COUNTY OF LOS ANGELES (hereafter
"County"),

and THE LOS ANGELES OPHTHALMOLOGY
MEDICAL GROUP, INC. (hereafter
"Contractor").

WHEREAS, pursuant to California Health and Safety Code, Sections 1441
and 1445, County has established and operates, through its Department of
Health Services, various County hospitals, comprehensive health centers and
health centers, including Martin Luther King, Jr. Multi-Service Ambulatory Care
Center (hereafter "MLK MACC" and/or Medical Facility); and

WHEREAS, Ophthalmology Clinic and Surgical ("Ophthalmology")
physician services must be available to meet the needs of sick or injured County
patients requiring treatment at MLK MACC; and

WHEREAS, County has determined that it has insufficient Ophthalmology
physician staff to provide all of the necessary Ophthalmology services required
for its patients at MLK MACC; and

WHEREAS, County has further determined that contracting for Ophthalmology physician services to be provided hereunder is feasible; and

WHEREAS, Contractor is a provider of Ophthalmology physician services and is able to provide directly Ophthalmology services at MLK MACC through physicians and other professionals, all of whom are duly licensed under the laws of the State of California to engage in the practice of their professions; and

WHEREAS, County is authorized by California Government Code sections 26227 and 31000, and by California Health and Safety Code sections 1441, 1445, and 1451 to contract for the medical services described hereunder.

NOW, THEREFORE, the parties hereto agree as follows:

1. TERM AND TERMINATION: The term of this Agreement shall commence February 1, 2008, and shall continue, unless sooner terminated or canceled, in full force and effect to and including January 31, 2010.

In any event, Contractor may terminate this Agreement at any time, for any reason, with or without cause, by providing at least one hundred and eighty (180) calendar days advance written notice thereof to County. County may terminate this Agreement at any time, for any reason, with or without cause, by providing at least thirty (30) calendar days advance written notice to Contractor. In any event, County may terminate this Agreement in accordance with the terms contained in various sections of the ADDITIONAL PROVISIONS hereunder.

If, within the term of this Agreement, either party terminates the Agreement for cause, then Contractor is prohibited from entering into an Agreement with the County for the same services at MLK MACC within the Agreement term.

County may terminate this Agreement immediately if Contractor, or any of its officers, employees, or agents, including any one or more of its physicians, fails to comply with the terms of this Agreement or any directions by or on behalf of County issued pursuant hereto.

County may also terminate this Agreement immediately if Contractor, its officers, employees or agents, including its physicians engage in, or if County has reasonable justification to believe that Contractor, or such employees, or agents, including Contractor's physicians, may be engaging in a course of conduct which poses an imminent danger to the life or health of County patients.

Immediate termination hereunder shall be effected by delivery to Contractor of a written "Notice of Immediate Termination" which shall be effective upon Contractor's receipt of such "Notice of Immediate Termination".

Unless earlier canceled or terminated, this Agreement shall concurrently terminate on the date that County transfers the management and operation of Medical Facility, by sale or management contract.

County's failure to exercise these rights of termination shall not constitute waiver of such rights, and the same may be exercised at any subsequent time.

2. ADMINISTRATION AND DEFINITIONS: The Director of County's Department of Health Services ("DHS"), or his authorized designee (hereafter

collectively "Director"), shall have the authority to administer this Agreement on behalf of County. Director retains professional and administrative responsibility for the services rendered under this Agreement. The general responsibility, however, does not relieve Contractor from its specific duties stated elsewhere under this Agreement, including, but not limited to, the obligation to perform its professional services according to customary quality of care standards in the community and under this Agreement. Contractor shall designate in writing a person who shall have the authority to administer this Agreement on behalf of Contractor. The term "Administrator", as used in this Agreement, shall mean MLK MACC Administrator or his/her duly authorized designee.

Contractor extends to Director, Administrator, and to authorized representatives of the State government, the Federal government and The Joint Commission the right at all reasonable times to review and monitor Contractor's personnel and services, including visits to Contractor's office(s) to verify compliance with applicable standards and regulations and with the terms of this Agreement.

All such inspections and reviews made at the Contractor's office(s) made by Director and other County representatives shall be conducted during Contractor's normal business hours in a manner which will not interfere with Contractor's operations.

Definition of County Patient: For purposes of this Agreement, "County Patient" shall mean a patient who seeks medical treatment from a County Department of Health

Services facility and who is treated by County or County contracted staff at the County health care facility. The term "County Patient" does not include patients referred from Contractor's private practice.

3. DESCRIPTION OF SERVICES: Contractor shall provide Ophthalmology medical services, as described in Exhibit "A", Description of Services, attached hereto and incorporated herein by reference, at MLK MACC.

4. MAXIMUM OBLIGATION OF COUNTY: During the period February 1, 2008 through January 31, 2009, the maximum obligation of County for all services provided hereunder is One Million Nine Hundred Seventy-Six Thousand Two Hundred and Eight Dollars (\$1,976,208) as reflected in Schedule I.

During the period February 1, 2009 through January 31, 2010, the maximum obligation of County for all services provided hereunder is One Million Nine Hundred Seventy-Six Thousand Two Hundred and Eight Dollars (\$1,976,208) as reflected in Schedule I.

5. BILLING AND PAYMENT: All billings to County by Contractor for services provided pursuant to this Agreement and the conditions and levels of payment shall be in accordance with the terms, conditions, and amounts set forth in Exhibit "B", Billing, Payment and Schedule of Rates, attached hereto and incorporated herein by reference.

6. NON-EXCLUSIVITY: Contractor shall not be the exclusive provider to County at MLK MACC of the services to be provided under this Agreement.

Contractor acknowledges that County may contract with other physicians or may employ ophthalmologists to provide services at MLK MACC. Moreover, the parties acknowledge that County has, or may enter into, contracts with other providers for the provision of services, including Ophthalmology services, at its other facilities. Contractor agrees to provide County during the term of this Agreement with the Ophthalmology services described in this Agreement.

7. INDEPENDENT CONTRACTOR STATUS:

A. This Agreement is by and between County and Contractor and is not intended, and shall not be construed, to create the relationship of employee, agent, servant, partnership, joint venture, or association, as between County and Contractor or as between County and Contractor provided personnel. The employees or agents of one party shall not be, or be construed to be, the employees or agents of the other party for any purpose whatsoever.

B. Contractor shall be solely liable and responsible for providing to, or on behalf of, its employees and physicians all legally required employee benefits. County shall have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, disability benefits, or Federal, State, and local taxes, or other compensation or benefits to any personnel provided by Contractor.

C. Contractor understands and agrees that all persons furnishing services to County pursuant to this Agreement are, for purposes of

workers' compensation liability, the sole responsibility of Contractor and not the responsibility of County. Contractor or Contractor's physicians as appropriate, shall bear the sole responsibility and liability for any and all workers' compensation benefits as a result of injuries arising from or connected with services performed by said physicians pursuant to this Agreement.

D. Contractor shall inform all of its physicians who may provide services under this Agreement in writing of the provisions of this Paragraph. A copy of such written notice shall be retained by Contractor for purposes of inspection and audit, and made available to County upon request.

8. SUBCONTRACTING:

A. For purposes of this Agreement, all subcontracts must first be approved in writing by Director. Contractor's written request to Director for approval to enter into a subcontract shall be made at least thirty (30) calendar days prior to the subcontract's proposed effective date, and shall include:

- (1) Identification of the proposed subcontractor (who shall be licensed as appropriate for provision of subcontract services);
- (2) A copy of the proposed subcontract, which includes the payment amount. (Any later modification of such subcontract shall take the form of a formally written subcontract amendment which

also must be approved in writing by Director in the same manner as described above, before such amendment is effective.);

(3) Any other information and/or certification(s) requested by Director.

B. Director shall review each Contractor's request to subcontract and shall determine, in his/her sole discretion, whether or not to consent to such a request on a case-by-case basis.

C. Subcontracts shall be made in the name of Contractor and shall not bind nor purport to bind County. The making of subcontracts hereunder shall not relieve Contractor of any requirement under this Agreement, including, but not limited to, the duty to properly supervise and coordinate the work of subcontractors. Further, Director's approval of any subcontract shall also not be construed to limit in any way, any of County's rights or remedies contained in this Agreement.

D. In the event that Director consents to any subcontracting, Contractor shall be solely liable and responsible for any and all payments or other compensation to all subcontractors, and their officers, employees, and agents.

E. In the event that Director consents to any subcontracting, such consent shall be subject to County's right to terminate, in whole or in part, any subcontract at any time upon written notice to Contractor when such action is deemed by County to be in its best interest. County shall not be

liable or responsible in any way to Contractor, or any subcontractor, or to any officers, employees, or agents, of Contractor, or any subcontractor, for any liability, damages, costs, or expenses, arising from or related to County's exercising of such a right.

F. Subcontracts shall contain the following provision:

"This contract is a subcontract under the terms of a prime contract with the County of Los Angeles and shall be subject to all of the provisions of such prime contract." Further, Contractor shall also reflect as subcontractor requirements in the subcontract form all of the requirements of the Paragraphs of this Agreement as well as all of the provisions of the Additional Provisions.

Contractor shall deliver to Director a fully executed copy of each subcontract entered into by Contractor, as it pertains to the provision of services under this Agreement, on or immediately after the effective date of the subcontract, but in no event, later than the date any services are to be performed under the subcontract.

G. Director is hereby authorized to act for and on the behalf of County pursuant to this Paragraph, including but not limited to, consenting to any subcontracting.

9. COUNTY PROFESSIONAL LIABILITY INDEMNIFICATION:

A. County shall indemnify, defend, and save harmless Contractor, its officers, and employees (for purposes of this Paragraph hereafter collectively

referred to as "Contractor") from liability, expense and claims for damages resulting from or related to a medical incident arising out of the provision of contract services hereunder. For purposes of this Agreement, a medical incident shall mean any act or omission in the rendering of, or failure to render, medical services, or treatment to County Patients by Contractor, at County's MLK-MACC, in the performance of Contractor's professional obligations under this Agreement.

B. County's indemnification of Contractor hereunder shall only apply to payments of settlements, judgments, and awards to third parties, including legal defense expenses. County's indemnification of Contractor hereunder shall further only arise if Contractor's liability is to a County Patient or the patient's representative, and the patient, at the time of the medical incident, was assigned to the care of Contractor. To the extent that County is obligated to provide an indemnification program hereunder, County will also provide claims administration and legal defense on behalf of Contractor.

C. Contractor shall give prompt telephonic notice (within twenty-four [24] hours) to MLK-MACC's Risk Manager of any incident, action, or claim to which Contractor reasonably believes this indemnification applies and shall fully cooperate with County and its claims representatives in any defense, settlement, or other disposition of such incident, action, or claim. Such telephonic notice shall be immediately followed by written notice to MLK-MACC's Risk Manager. Such written notice shall include all of the information listed in County's Risk Management form. Contractor hereby acknowledges receipt of said County Risk Management form.

D. County reserves the right to investigate any incident, action, or claim. In such event, Contractor shall allow County representatives access to the medical records and reports pertaining to the services provided to any County patient involved in such incident, action, or claim. Contractor shall also allow County representatives access to its employees and agents, if any, who provided services to the County patients involved in such incident, action, or claim.

County's agents, as designated by Director, will consult with Contractor regarding the disposition of any action or claim hereunder. However, County reserves the right to determine the final disposition of any action or claim. In the event Contractor does not agree with County's agents in any defense, settlement, or other disposition of such action or claim, Contractor may pursue defense, settlement, or other disposition of such action or claim independently and County's indemnification obligation with respect to such action or claim shall immediately terminate. In such event, County shall have no financial obligation on behalf of Contractor for liability, expenses, including legal defense fees and expenses, or payments of settlements, judgments, awards, or damages arising out of the medical incident.

E. County shall have no indemnification responsibility or liability for any incident, action, or claim against Contractor if Contractor has failed to fully and reasonably cooperate with County and its agents in the defense, settlement, or other disposition of such incident, action, or claim.

In addition, County shall have no indemnification responsibility or liability for any incident, action, or claim against Contractor by patients or their legal

representatives, other than those covered specifically by this Agreement.

Moreover, this indemnification shall not cover Contractor's damages or expenses arising out of Contractor's willful or criminal misconduct, nor shall it cover the award of any punitive damages.

F. The provisions of this Paragraph shall survive the expiration or earlier termination of this Agreement for actions or claims against Contractor.

10. COUNTY GENERAL LIABILITY INDEMNIFICATION: As part of County's consideration under this Agreement, County shall indemnify, defend, and save harmless Contractor, its officers, and employees (in this Paragraph hereafter collectively referred to as "Contractor") from general liability, expense, and claims for damages of third parties resulting from or directly related to the provision of services at County's MLK-MACC to County patients under this Agreement, except that this indemnification shall not extend to Contractor's willful or criminal misconduct or to any Contractor actions which result in the imposition of punitive damages. Nor shall this indemnification cover claims or actions against Contractor arising from Contractor's or his or her employees' negligent use of an automobile or other motor vehicle.

11. CONTRACTOR INDEMNIFICATION: With the exception of the professional liability indemnification and the general liability indemnification provided by County, as stated above, Contractor shall indemnify, defend, and hold harmless County and its Special Districts, elected and appointed officers, employees, and agents from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, and expenses (including attorney and expert witness fees), arising from or

connected with Contractor's acts and/or omissions arising from and/or relating to this Agreement.

12. GENERAL INSURANCE REQUIREMENTS: Without limiting County's indemnification of Contractor, and during the term of this Agreement, Contractor shall provide the following programs of insurance specified in this Agreement. Such insurance shall be primary to and not contributing with any other insurance or self-insurance programs maintained by County, and such coverage shall be provided and maintained at Contractor's own expense.

A. Evidence of Insurance: Certification(s) or other evidence of coverage satisfactory to County shall be delivered to County's Department of Health Services, Contracts and Grants Division, 313 North Figueroa Street, Sixth Floor-East, Los Angeles, California 90012, prior to commencing services under this Agreement. Such certificates or other evidence shall:

- (1) Specifically identify this Agreement.
- (2) Clearly evidence all coverages required in this Agreement.
- (3) Contain the express condition that County is to be given written notice by mail at least thirty (30) calendar days in advance of cancellation for all policies evidenced on the certificate of insurance.
- (4) Pursuant to Paragraph 13, INSURANCE COVERAGE REQUIREMENTS, include copies of the additional insured endorsement to the commercial general liability policy, adding County of Los Angeles, its Special Districts, its officials, officers, and employees as insureds for all activities arising from this Agreement.

(5) Identify any deductibles or self-insured retentions for County's approval. County retains the right to require Contractor to reduce or eliminate such deductibles or self-insured retentions as they apply to County, or, require Contractor to provide a bond guaranteeing payment of all such retained losses and related costs, including, but not limited to, expense or fees, or both, related to investigations, claims administrations, and legal defense. Such bond shall be executed by a corporate surety licensed to transact business in the State of California.

B. Insurer Financial Ratings: Insurance is to be provided by an insurance company acceptable to County with an A.M. Best rating of not less than A: VII, unless otherwise approved by County.

C. Failure to Maintain Coverage: Failure by Contractor to maintain the required insurance, or to provide evidence of insurance coverage acceptable to County, shall constitute a material breach of contract upon which County may immediately terminate or suspend this Agreement. County, at its sole option, may obtain damages from Contractor resulting from said breach. Alternatively, County may purchase such required insurance coverage, and without further notice to Contractor, County may deduct from sums due to Contractor any premium costs advanced by County for such insurance.

D. Notification of Incidents, Claims, or Suits: Contractor shall report to County:

(1) Any accident or incident relating to services performed under this Agreement which involves injury or property damage which may result

in the filing of a claim or lawsuit against Contractor and/or County. Such report shall be made in writing within twenty-four (24) hours of occurrence.

(2) Any third party claim or lawsuit filed against Contractor arising from or related to services performed by Contractor under this Agreement.

(3) Any injury to a Contractor employee which occurs on County property. This report shall be submitted on a County "Non-Employee Injury Report" to County contract manager.

(4) Any loss, disappearance, destruction, misuse, or theft of any kind whatsoever of County property, monies, or securities entrusted to Contractor under the terms of this Agreement.

E. Compensation for County Costs: In the event that Contractor fails to comply with any of the indemnification or insurance requirements of this Agreement, and such failure to comply results in any costs to County, Contractor shall pay full compensation for all costs incurred by County.

F. Insurance Coverage Requirements for Subcontractors: Contractor shall ensure any and all subcontractors performing services under this Agreement meet the insurance requirements of this Agreement by either:

- (1) Contractor providing evidence of insurance covering the activities of subcontractors, or
- (2) Contractor providing evidence submitted by subcontractors evidencing that subcontractors maintain the required insurance coverage.

County retains the right to obtain copies of evidence of subcontractor insurance coverage at any time.

13. INSURANCE COVERAGE REQUIREMENTS:

A. General Liability Insurance. If Contractor maintains a private medical practice and County patients will receive services at the Contractor's private practice location(s), then Contractor also shall maintain general liability insurance (written on ISO policy form CG 00 01 or its equivalent) with limits of not less than the following:

General Aggregate:	\$2 Million
Products/Completed Operations Aggregate:	\$1 Million
Personal and Advertising Injury:	\$1 Million
Each Occurrence:	\$1 Million

B. Automobile Liability Insurance (written on ISO policy form CA 00 01 or its equivalent) with a limit of liability of not less than \$1 Million for each accident. Such insurance shall include coverage for all "owned", "hired" and "non-owned" vehicles, or coverage for "any auto".

C. Professional Liability Insurance: Consistent with MLK-MACC's Medical Administration Policies and Procedures governing physician services, if Contractor maintains a private medical practice and treats his or her private patients at MLK-MACC, or if Contractor maintains a private medical practice and County patients will receive services at the Contractor's private practice location(s), then Contractor shall provide for herself/himself/itself a program of medical malpractice insurance or errors and omissions insurance covering

liability arising from any error, omission, negligent or wrongful act of Contractor, its officers or employees, with limits of not less than \$1 Million per occurrence and \$3 Million aggregate. The coverage also shall provide an extended two-year reporting period commencing upon termination or cancellation of this Agreement.

If Contractor does not maintain a private medical practice and does not treat private patients at County's MLK-MACC, or if Contractor maintains a private medical practice, but does not treat County patients at Contractor's private practice location(s), then Contractor need not provide for herself/himself/itself a program of malpractice insurance or errors and omissions insurance to cover services provided under this Agreement.

D. Workers Compensation and Employer's Liability Insurance: If Contractor utilizes any of its employees or agents in the provision of any medical services at MLK-MACC hereunder, as set forth in Exhibit "A", Paragraph 4, then Contractor shall provide workers compensation benefits, as required by the Labor Code of the State of California or by any other state, and for which Contractor is responsible.

In all cases, the above insurance also shall include Employers' Liability coverage with limits of not less than the following:

Each Accident:	\$1 Million
Disease - Policy Limit:	\$1 Million
Disease - Each Employee:	\$1 Million

14. ADDITIONAL PROVISIONS: Attached hereto and incorporated herein by reference is a document labeled "ADDITIONAL PROVISIONS". The terms and conditions contained therein are part of this Agreement.

15. ENTIRE AGREEMENT: The body of this Agreement including ADDITIONAL PROVISIONS, Exhibits A and B, Schedule 1, and Attachment I, shall constitute the complete and exclusive statement of understanding between the parties which supersedes all previous agreements, written or oral, and all other communications between the parties relating to the subject matter of this Agreement.

16. CONTRACTOR'S OFFICES: Contractor's primary business offices are located at 3737 Martin Luther King, Jr., Boulevard, Suite 401, Lynwood, California 90262. Contractor's primary business telephone number is (310) 669-8845, and facsimile/FAX number is (310) 669-8846. Contractor shall notify in writing County's Department of Health Services, Contracts and Grants Division, of any change in its primary business address, business telephone number, and business facsimile/FAX number used in the provision of services herein, at least ten (10) calendar days prior to the effective date thereof.

If during the term of this Agreement, the corporate or other legal status of Contractor changes, or the name of Contractor changes, then Contractor shall notify County's Department of Health Services, Contracts and Grants Division, in writing detailing such changes at least thirty (30) calendar days prior to the effective date thereof.

17. NOTICES: Any and all notices required, permitted or desired to be given hereunder by one party to the other shall be in writing and shall be delivered to the other

party personally or by United States mail, certified or registered, postage prepaid, return receipt requested, to the parties at the following addresses and to the attention of the person named. Director shall have the authority to issue all notices which are required or permitted by County hereunder. Addresses and persons to be notified may be changed by either party by providing at least ten (10) calendar days prior written notice to the other.

A. Notices to County shall be addressed as follows:

1. Department of Health Services
313 North Figueroa Street, Suite 912
Los Angeles, California 90012
Attention: Chief Deputy Director
2. Department of Health Services
Harbor-UCLA Medical Center
1000 W. Carson Street
Torrance, California 905012
Attention: Chief Executive Officer
3. Department of Health Services
Contracts and Grants Division
313 North Figueroa Street, Sixth Floor - East
Los Angeles, California 90012
Attention: Division Chief

B. Notices to Contractor shall be addressed as follows:

The Los Angeles Ophthalmology Medical Group, Inc.
3737 Martin Luther King, Jr., Boulevard, Suite 401
Lynwood, California 90262
Attention: Richard Casey, M.D., President and
Executive Officer

IN WITNESS WHEREOF, Contractor has executed this Contract, or caused it to be duly executed and County of Los Angeles, by order of its Board of Supervisors has caused this Contract to be executed on its behalf by the Chair of said Board and attested by the Executive Officer, Board of Supervisors thereof, the day and year first above written.

COUNTY OF LOS ANGELES

By _____
Chair, Board of Supervisors

ATTEST:
Sachi A. Hamai
Executive Officer, Board of Supervisors

By _____

THE LOS ANGELES OPHTHAMOLOGY
MEDICAL GROUP, INC.
Contractor

By _____
Signature

Printed Name

Title _____
(Affix Corporate Seal Here)

APPROVED AS TO FORM:

Raymond G. Fortner, Jr.
County Counsel

By _____
Deputy County Counsel

DEPARTMENT OF HEALTH SERVICES

By: _____
Cara O'Neill, Chief
Contracts and Grants Division

DESCRIPTION OF SERVICES

OPHTHALMOLOGY CLINIC AND SURGICAL SERVICES AGREEMENT

1. DEFINITIONS: All DEFINITIONS below are applicable to this Exhibit "A" and Exhibit "B" only.

A. Shift: A shift consists of eight (8) consecutive hours. There are two (2) shifts in a sixteen (16) hour day.

B. Physician: A physician licensed by the State of California who is Board Certified or Board Eligible in the specialty of Ophthalmology.

C. Physician Staff/Physician Services: "Physician staff" shall mean licensed physicians who are Board Certified or Board Eligible in ophthalmology and the term "physician services" shall mean professional services provided by such physicians.

D. Patient Visit: "Patient visit" shall mean a face-to-face encounter between a patient and a physician or other licensed clinician who shall exercise independent judgment in the provision of preventive, diagnostic or treatment services. A "patient visit" shall be evidenced by a completed Encounter Form, substantially similar to the HCFA 1500, the 937P, or other forms requiring comparable Encounter Data, a copy of any such form shall be placed in the patient's medical record.

E. Clinic Services: "Clinic Services" shall mean those patient visits provided in a General Ophthalmology clinical setting or in a County surgical suite. During the term of this Agreement, Contractor shall provide Clinic Services,

including urgent and emergency surgical procedures. Contractor shall not provide elective surgical procedures. However, Contractor shall perform urgent and emergent surgical procedures in order to preserve vision or prevent irreversible vision loss. All surgical cases shall be coordinated through designated County surgery center staff.

2. SERVICES TO BE PROVIDED: Contractor shall arrange for the provision of Ophthalmology medical services at MLK MACC by Contractor's physicians and optometrists. Such services shall include adequately staffing the Ophthalmology clinic and the provision of Ophthalmology surgery, as necessary to meet patient volume, and as follows:

A. Ophthalmology Clinic: Provision of sufficient staffing for clinic coverage for five (5) days per week, Monday through Friday, for one (1) shift (eight [8] consecutive hours) per day for weekdays during the term of this Agreement – not including County holidays or other holidays recognized or created by the State, Federal, or County government(s) during the term of this Agreement. For purposes of this Agreement, County holidays as described above shall be considered a weekend day. Contractor shall provide sufficient staffing to provide the following medical and surgical components:

- Diagnosis and treatment of Cataracts
- Diagnosis and treatment of Cornea and External Disease
- General Ophthalmology
- Diagnosis and treatment of Glaucoma
- Diagnosis and treatment of Medical Retina/Uveitis
- Neuro-Ophthalmology
- Oculoplastic
- Optometry
- Pediatric Ophthalmology
- Retinal Surgery

Without limiting any other provision of this Paragraph, the parties agree that physicians shall screen, provide treatment as necessary to stabilize each patient's condition, and recommend follow-up care to patients, as appropriate. Contractor shall also provide such non-traditional services, including but not limited to telephone consultations with urgent care physicians and pharmacies, as are requested by County.

B. Contractor Administrative Services: Contractor shall provide administrative support for the clinic services it renders. It shall provide an Ophthalmology Medical Director who meets the requirements set forth in Paragraph 3(E) below and who will serve as the primary contact between Contractor and MLK MACC. The Ophthalmology Medical Director or designee (hereafter collectively "Contractor Medical Director") shall be available either on-site or by telephonic contact on a sixteen (16) hour/seven (7) day basis.

Such administrative services may include responding to requests for clinical consultations from County staff at MLK-MACC. Only time spent by such Contractor Medical Director actually providing services under this Agreement shall be compensated; County is not obligated to pay for time during which Contractor Medical Director is available but not directly providing administrative services. In no event will County provide compensation during any month for time spent by Contractor Medical Director which exceed the maximum number of hours set forth in Schedule 1 to Exhibit B. However, notwithstanding that

limitation, Contractor remains responsible for assuring Contractor Medical Director services through-out the month.

In addition to the Contractor Medical Director, Contractor shall provide the services of an office administrator. Such individual shall be responsible for participating in budget creation for the Ophthalmology program, and in expense management, working with Contractor's Human Resources staff on matters involving positions providing services under this Agreement, including developing and evaluating such staff, assisting patients by monitoring patient feedback and helping in the resolution of grievances, coordinating OSHA and other training for Contractor staff, and coordinating and communicating scheduling and scheduling issues for clinical and other Contractor staff. General coordination of Contractor services with County systems and personnel shall also constitute billable services under this Agreement. Time spent by Office Administrator promoting, monitoring or otherwise facilitating Contractor's private business or internal operations shall not be billed under this Agreement by Contractor, and will not be paid by County. It will also provide staff to assist with Quality Improvement Program participation as set forth in paragraph L below and to assist in the preparation, review or revision of quality improvement policies and procedures for the Ophthalmology program, to evaluate patient records applying quality improvement standards, to evaluate the effectiveness of quality improvement initiatives and identify additional opportunities for improvement, and to assist in the preparation of reports required under this Agreement.

Contractor shall also provide the services of Ophthalmic Technicians, who will be duly licensed or certified as required by state law. Such individuals shall provide such services within the scope of their allowed practice to assist physicians and optometrists as is deemed appropriate by Contractor. Such services include, but are not limited to testing patient's vision, depth perception, ocular pressure, and field of vision and documenting the results, performing other measurements and providing information and instruction to patients. However, County will not provide compensation for time spent by the Ophthalmic Technicians in any month which is in excess of the maximum hours set forth in Schedule 1 to Exhibit B.

C. Modification of Hours: Contractor agrees that County reserves the right to reduce or restructure the number of required hours of clinic coverage to reflect changes in ophthalmology service volume and that any change may impact the staffing needed at the ophthalmology clinic. Any modification to clinic hours which would increase Contractor's compensation above the contract maximum will require a formal amendment to this Agreement. Furthermore, Contractor agrees that County is under no obligation to guarantee a specific amount of patient volume in the Ophthalmology clinic and does not guarantee Contractor a minimum number of surgical procedures to be performed under this Agreement. County agrees to promptly notify Contractor of any decision that will significantly impact the service volume.

D. Supplemental Services: Contractor shall ensure the managing, discharging of, and consulting for Ophthalmology outpatients at MLK MACC, and

reviewing and dispositioning critical and abnormal laboratory and radiology tests results for MLK MACC Ophthalmology Clinic outpatients treated earlier.

E. Physician Staff: Only physicians meeting the County's criteria specified in Paragraphs 3 and 4 below and who are acceptable to MLK MACC's Administrator shall be assigned to MLK MACC.

F. Monitoring of Ophthalmology Facility Quality Indicators: County agrees to support the prompt adoption of standardized order sets and forms that have been developed and/or reviewed by Contractor Medical Director and approved by Administrator in order to assist in the development and implementation of evidence based practice guidelines.

G. Referrals: In the event that Contractor's physician on duty determines that an outpatient has an immediate need for a higher level of care, Contractor shall initiate, in a timely fashion, the appropriate referral of the outpatient to another appropriate County facility which provides the required level of care.

H. MLK MACC Oversight of Care: Ophthalmology medical services under this Agreement shall be performed only for County patients and shall be under the direction of MLK MACC's Medical Director. Such patients may include individuals referred from the Hubert H. Humphrey Comprehensive Health Center. MLK MACC shall retain professional and administrative responsibility for the services provided under this Agreement. The specific times, places, and dates of the services set forth in this Paragraph 2 shall be scheduled in advance, in

writing, and agreed upon by MLK MACC's Medical Director, or his designee, and Ophthalmology Medical Director.

3. CONTRACTOR RESPONSIBILITIES:

A. Business License: Contractor and/or Contractor's Owner and major Shareholder shall provide evidence that it has, for a minimum of two (2) years, been in business as a provider of ophthalmology medical services described in this Agreement. Prior to the execution of this Agreement, Contractor shall provide the Department of Health Services "(DHS)", Contracts and Grants Division, with a copy of its current business license(s) and appropriate Employer Identification Number.

B. Physician and Optometrist License: Contractor shall ensure that each of its Physicians is duly licensed to practice medicine in the State of California, and Board certified or Board eligible in ophthalmology. Contractor shall assure that the physicians who agree to provide services through Contractor hereunder shall at all times meet the minimum professional qualifications for his/her specialty, as defined by MLK MACC. In addition, Contractor shall ensure that each of its optometrists is duly licensed to practice optometry in the State of California.

C. Coverage: Contractor shall ensure that there is physician coverage as described in Paragraph 2(A), Ophthalmology Clinic above, in the Ophthalmology clinics of MLK MACC, unless reduced by County as set forth in Paragraph 2(C) above. Such coverage shall include sufficient on-site physicians, to provide the medical services specified in such Paragraph 2(A) to

Ophthalmology clinics of MLK MACC. The Ophthalmology physicians shall be responsible for all Ophthalmology medical services including, but not limited to, those outpatient care services listed herein.

D. Maintenance of Standards: Contractor shall maintain the standards necessary for accreditation by The Joint Commission or other accrediting body selected by Director.

Contractor and its physicians and optometrists shall render medical and all other services hereunder in accordance with all community standards of medical practice, and applicable and accepted professional and ethical standards of the medical profession and shall ensure that such services shall be in compliance with all applicable Federal, State, and local laws, ordinances, regulations, rules, and directives, as well as with all applicable regulations, policies, procedures, rules, and directives of MLK MACC.

E. Contractor Medical Director: Contractor shall designate a Contractor Medical Director who will be the principal point of contact with the County. The appointment of the Contractor Medical Director shall be approved by Administrator.

Contractor Medical Director shall be duly licensed to practice medicine in the State of California, and Board certified in ophthalmology. The Contractor Medical Director shall have demonstrated outstanding clinical, management, leadership and communication skills. The Contractor Medical Director shall have the ability to work effectively with other medical personnel and to participate in diverse management teams. Further, the Contractor Medical Director shall

demonstrate general business and financial management skills, including expertise in risk management, compliance, COBRA and The Joint Commission issues, and customer service.

F. Professional Services Billing: Contractor, including its principals and Ophthalmology personnel, shall not bill any patient or any payor for services rendered pursuant to this Agreement and shall consider payment by County to be payment in full for such services. Contractor agrees to assure that it, and all physicians and optometrists providing services under this Agreement, take whatever steps are necessary to enable the County to bill patients and any payor for the professional services provided under this Agreement.

G. Financial Screening Staff: Contractor shall cooperate with County's efforts to identify the patient's financial resources in the Ophthalmology clinic, to the extent allowed by law.

H. Recruitment:

1. Prior to allowing any physician to provide services under this Agreement, Contractor shall screen and validate such physician's experience and suitability to determine and assure that each such physician meets the professional qualifications requested by MLK MACC. Contractor shall also query the National Data Bank and State Medical Board on each physician candidate and report to Administrator all adverse reports related to medical malpractice and disciplinary action involving that physician prior to allowing that individual to provide services under this Agreement.

2. Contractor shall provide MLK MACC with Curriculum Vitae for each physician or optometrist seeking to provide services under this Agreement. When feasible, Contractor shall make such physician(s) available for personal interview(s) by County MLK MACC's staff designated by the Administrator.

I. Infection Control: If any of Contractor's physicians is diagnosed with having an infectious disease, and Contractor is made aware of such a diagnosis and such person has had contact with a County patient during the usual incubation period for such infectious disease, then Contractor shall report such occurrences to the MLK MACC Infection Control Department within twenty-four (24) hours of becoming aware of the diagnosis.

If a County patient is diagnosed with having an infectious disease, and such County patient has had contact with any Contractor physician during the usual incubation period for such infectious disease, the facility treating the patient shall report such occurrence to Contractor, if the law so permits.

For purposes of this Agreement, the infectious diseases reportable hereunder are those listed in the Public Health List of Reportable Diseases.

J. Physical Examinations/Immunizations: Contractor shall ensure that each clinician who performs patient care services under this Agreement is examined by a California licensed physician, or other licensed medical practitioner authorized to perform annual physical examinations, on an annual or biannual basis, as required by The Joint Commission and shall provide Administrator upon reasonable request, with evidence that each such person is

free of infectious disease(s), has been immunized against common communicable diseases, has received a chest X-ray and/or annual TB skin test, a rubella antibody titer demonstrating immunity and/or vaccination, and been offered a Hepatitis B antibody titer demonstrating immunity and/or vaccination. In those instances where persons have no demonstrated immunity, and have refused vaccination, a waiver to that effect must be on file and provided upon request.

Written certification that such clinician is free of infectious disease(s), has been tested and/or vaccinated as required above, and is physically able to perform the duties described herein shall be retained by Contractor for purposes of inspection and audit and made available at all reasonable times to Administrator upon request.

Contractor's clinicians not having completed one or more of the above tests may choose to obtain such tests at MLK MACC, at Contractor's or the physician's expense, if such tests are offered by MLK MACC. In such event, the time Contractor's personnel spend obtaining such required tests may not be billed to County.

K. County Policies/Training: Prior to providing services, Contractor shall ensure that its employees and agents assigned to MLK MACC become familiar with County policies and participate in training as follows:

1. Department Of Health Services Risk Management Information Handbook: Contractor's clinicians must read and sign a statement that she/he has read the DHS Risk Management Information Handbook

regarding DHS' malpractice policies and medical protocols. Such signed statement shall be maintained by Contractor and made available to MLK MACC upon request.

2. County's Orientation Handbook and the Non-County Workforce Comprehensive Policy Statements: Contractor shall ensure that its employees and agents providing services under this Agreement read the County's Orientation Handbook and the Non-County Workforce Comprehensive Policy statements and sign the Acknowledgment of Conditions of Assignment. Such signed acknowledgment shall be maintained by Contractor and made available to MLK MACC upon request.

3. Department of Health Services Compliance Awareness Training: Contractor shall ensure that its employees and agents complete the Compliance Awareness Training and participate in training updates every two years.

County may, at its own discretion, provide Contractor an orientation package to include, but not be limited to, the material referenced in this Paragraph, which must provide to its employees and agents prior to providing services at MLK MACC.

L. Quality Indicators: Contractor shall participate in MLK MACC's Quality Improvement Program ("QIP") and shall establish Quality Indicators in conjunction with MLK MACC's QIP. Examples of such Quality Indicators may include, but not be limited to, the following:

1. Patient Satisfaction Surveys
2. Ophthalmology Clinic Waiting Time
3. Accuracy and Timeliness of Medical Record completion
4. Contractor-Staff (e.g., nursing, clerical, and ancillary, etc.)

relationships surveys

5. Patient Elopement
6. Number of Walk-In Patients; No Shows; and Referrals
7. Time From Referral for Diabetes/Retinopathy to Evaluation
8. Periodic Chart Reviews
9. Health Insurance Portability and Accountability Act of 1996

Compliance

10. Medicine Reconciliation
11. Post Operation Infection Rate
12. Complication Rates
13. Monitoring of Surgical Pause
14. Wrong Site Procedure
15. Physician Cycle Time/Productivity
16. Monitoring for Unapproved Abbreviations
17. Operation Reports Signed Timely
18. Identify Compliance Officer/Quality Improvement

Additionally, Contractor shall submit Quality Assurance/Quality Improvement reports monthly to MLK MACC's Administration Committee or as requested by MLK MACC's Administrator.

M. Written Schedule: The Contractor Medical Director shall prepare, on a monthly basis and in consultation and collaboration with MLK MACC's Medical Director or his designee, a written schedule of Ophthalmology coverage for shifts requiring Contractor coverage. Such schedule shall be presented in duplicate for review and approval by the MLK MACC Medical Director prior to the first day of the month to which the schedule applies. Current schedule, Attachment 1, is attached hereto and incorporated herein by reference.

N. Without limiting any other obligation imposed in this Agreement, Contractor expressly acknowledges and agrees that it will comply with MLK MACC Ambulatory Care Policies which include Policy Nos. 3.1; 3.2; 3.3; and 3.4 which deal with the appropriate procedures to follow for Clinic Appointments; Broken Appointment Follow-Up; Clinic Coverage, Clinic Cancellation and Patient Appointment Rescheduling; and New Services/Clinic Request. Contractor further acknowledges that multiple instances of non-compliance with these procedures constitute grounds for termination of this Agreement.

O. Invoice: Contractor shall provide County with a complete invoice in a monthly basis in accordance with Exhibit "B", in order to receive payment from County.

4. PHYSICIAN REQUIREMENTS:

A. Licenses: Prior to having any physician provide services under this Agreement, Contractor shall provide Administrator with a copy of such physician's current licenses, credentials, and certifications.

All physicians providing medical services hereunder must meet the credentialing criteria set forth in MLK MACC's credentialing process as established in its Policies and Procedures prior to providing medical services under this Agreement. The MLK MACC Medical Director shall verify the current status of each physician's license, medical clearance(s), credentials, and certifications, as appropriate, when such physician is first assigned to such MLK MACC. MLK MACC shall refuse the services of any physician who does not meet MLK MACC's credentialing criteria and/or whose license, credentials, and certifications, as appropriate, are not current and adequate.

In the event MLK MACC inadvertently accepts the services of a physician who lacks the appropriate licenses, credentials, and certificates, as appropriate, MLK MACC shall not pay for any time worked by that physician.

Failure to maintain one hundred percent (100%) compliance with the requirements of this Paragraph, as determined by a County audit/compliance review, shall constitute a material breach of this Agreement upon which County may immediately terminate this Agreement.

B. Bloodborne Pathogens Training: All physicians providing services hereunder must read and sign a statement that she/he has read the Occupational Safety and Health Administration ("OSHA") Bloodborne Pathogens Programmed Instruction packet prior to providing services under this Agreement.

C. Cardio-Pulmonary Resuscitation Certification: If not Board certified in ophthalmology, all physicians providing services hereunder must be currently certified in cardio-pulmonary resuscitation ("CPR") from either the American

Heart Association, the American Red Cross, or other County approved program and must carry their current, original (not a copy) CPR card at all times.

D. Record Completion: Contractor shall ensure that its physicians fully cooperate with MLK MACC in completing certain records, as requested by Administrator. Such records may include, but are not limited to: Physician Time Allocation Survey, Professional Services Assignment Agreement, and a Medicare Penalty Statement.

5. COUNTY RESPONSIBILITIES:

A. County shall provide all needed nursing and support staff for the Ophthalmology at MLK MACC. County shall also provide all needed ancillary services for the Ophthalmology services provided at MLK MACC to include, but not be limited to, the following:

1. General laboratory support
2. Radiological imaging support
3. Pharmaceutical and surgical supplies
4. Pharmacy support
5. Digital imaging and angiography services
6. Materials management and medical records supplies
7. Ocular pathology for all histo-pathological specimen analyses for surgical special evaluation

B. Medical Director of MLK MACC shall assure that Ophthalmology medical services, as identified on the Contractor's monthly written schedule, were provided and that Contractor maintains appropriate time records to reflect the provision of same. MLK MACC shall maintain such schedules throughout the

Agreement term and for a period of five years thereafter for the purposes of inspection and audit.

C. MLK MACC is required to maintain medical records for patients seen by Contractor and other records for Contractor's physicians providing services at MLK MACC. Such records may include, but are not limited to: Physician Time Allocation Survey and Medicare Penalty Statement. Contractor shall fully cooperate with MLK MACC in completing such records whenever requested by Administrator to do so.

D. County shall provide supplies, desk, telephone, and other clerical supplies for physicians' usage.

6. PERSONNEL:

A. The Administrator may refuse the provision of service by, or the assignment of, any of Contractor's personnel, in his or her sole discretion, during the term of this Agreement. Contractor agrees to accept and abide by any decision of Administrator and promptly shall remove any such personnel from service under this Agreement. After prompt removal of such personnel by Contractor, Contractor may appeal the Administrator's decision within five (5) calendar days of the prompt removal of such personnel, in writing to the Director, whose decision shall be final.

Contractor may discipline or terminate any personnel, without cause, in its sole discretion, during the period of personnel's assignment to MLK MACC. County agrees to accept and abide by any decision of Contractor.

In any of the above cases, Contractor may bill MLK MACC for the actual hours worked by said individual up to the maximum as set forth in Schedule 1 of Exhibit B prior to his/her removal.

B. The intent of the parties is to communicate in good faith regarding problems involving Contractor-assigned personnel.

C. MLK MACC may refuse assignment of a physician or other personnel who has previously been requested to be removed from the provision of services by any other County facility.

D. Contractor shall establish appropriate policies and procedures regarding initial and follow-up procedures for Contractor's personnel who experience an industrial accident (e.g., needle stick) while providing services at MLK MACC. In the event one of Contractor's personnel experiences an industrial accident while performing services under this Agreement, such individual may seek immediate medical care at MLK MACC, or appropriate County Facility capable of treating such an accident at Contractor's expense. Follow-up for Contractor personnel exposed to Human Immunodeficiency Virus ("HIV") positive patients (e.g., needle sticks) must be in accordance with Federal Centers for Disease Control and Prevention ("CDC") guidelines and is the responsibility of Contractor and the individual and not that of County.

Contractor shall give each person providing services hereunder written instructions on the above policies and procedures which shall be reviewed with each of Contractor's personnel as needed, but not less than annually.

A copy of the above policies and procedures shall be retained by Contractor and made available to County upon request for purposes of inspection and audit.

7. STANDARDS OF CARE:

A. County has established a Quality Assessment and Improvement Committee, composed of County employees appointed by Director to review the services contemplated by this Agreement and to assure a standard of care by Contractor and others which is consistent with the laws of the State and Federal government, with County's Quality Assessment and Improvement standards, and with the prevailing standards of medical practice in the community. Contractor agrees to adhere to the standards established by such committee and to permit review of its services and operations by County's Quality Assessment and Improvement Committee representatives.

8. PARKING SPACE: When providing services at a MLK MACC hereunder, Contractor's personnel shall be furnished with parking at the MLK MACC, if available.

MLK, JR. MULTI-SERVICE AMBULATORY CARE CENTER
TENTATIVE MASTER CLINIC SCHEDULE *
OPHTHALMOLOGY SERVICES

CLINIC NAME	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	WEEKLY CAPACITY
General A.M.	8:00 AM - 12:00 NN R. Casey 16-New/Revisit	8:00 AM - 12:00 NN E. Soroudi 16-New/Revisit K. Cox 16-New/Revisit R. Casey 16-New/Revisit	8:00 AM - 12:00 NN E. Soroudi 16-New/Revisit	8:00 AM - 12:00 NN A. Patel 16-New/Revisit R. Casey 16-New/Revisit	8:00 AM - 12:00 NN K. Cox 16-New/Revisit	192
General P.M.	1:00 PM - 5:00 PM K. Cox 16-New/Revisit	1:00 PM - 5:00 PM K. Cox 16-New/Revisit		1:00 PM - 5:00 PM A. Patel 16-New/Revisit C. Powell 16-New/Revisit		
Cornea	1:00 PM - 5:00 PM R. Casey 16-New/Revisit	1:00 PM - 5:00 PM R. Casey 16-New/Revisit		1:00 PM - 5:00 PM R. Casey 16-New/Revisit		48
Pediatrics		1:00 PM - 5:00 PM C. Powell 16-New/Revisit				16
Medical Retina/ Uveitis/Surgical Retina			1:00 PM - 5:00 PM S. Khana 16-New/Revisit		1:00 PM - 5:00 PM S. Khana 16-New/Revisit	32
Glaucoma/ Neuro-Ophthalmology			8:00 AM - 12:00 NN M. Banks 16-New/Revisit			16
Plastics			1:00 PM - 5:00 PM T. Nakra 16-New/Revisit			16
Optometry		8 hrs for 10 patients		8 hrs for 10 patients		20
TOTALS	48	106	64	90	32	340

MAJOR OPERATING ROOM:

7.69 Cases per week pending Ambulatory Surgical Scheduling

LASER SURGERY:

7.69 Cases per week pending Physician Scheduling

*Schedule may be revised by MLK MACC Medical Director

BILLING, PAYMENT AND SCHEDULE OF RATES

OPHTHALMOLOGY CLINIC AND SURGICAL SERVICES AGREEMENT

1. **BILLING AND PAYMENT:** Contractor shall bill County monthly in arrears, in accordance with the terms, conditions, and rates set forth below. All bills shall clearly reflect and provide reasonable detail of the services for which claim is made, including, but not limited to, type of services provided, names of the persons who provided the service, service dates, the number of hours that services were provided, and for surgical services, the relevant procedure code. In addition, the bill shall include, the number of patient visits on a daily basis – by clinician, including the clinician's name and staff position, the total number of patient visits provided in the billing period, and any other charges or credits, as set forth in this Agreement. All invoices must be accompanied by a completed written schedule, as referenced in Exhibit "A", Paragraph 3, (**CONTRACTOR RESPONSIBILITIES**), Subparagraph N, for the billing month.

Bills shall be made and forwarded to Martin Luther King, Jr. Multi-Service Ambulatory Care Center ("MLK MACC") to the attention of the Expenditure Management Division promptly on a monthly basis. Upon receipt of a complete and correct billing, County shall pay Contractor within thirty (30) working days. Incorrect and/or discrepant billings, as determined by MLK MACC, will be returned to Contractor for correction before payment is made.

In the event this Agreement is suspended, canceled, or terminated, County's payment obligation above shall cease as of the date of such suspension, cancellation, or termination. All unpaid past due balances, including payment for all services

provided according to the terms of this Agreement before the termination date, shall be due and payable in accordance with the time frames set forth in this Paragraph.

2. THIRD PARTY BILLING: Contractor, including its principals, agents, and employees, shall consider payment by the County to be payment in full for such services and shall not bill any patient or any payor for services rendered pursuant to this Agreement.

Contractor agrees that County will bill for all third party payors for patients receiving medical services under this Agreement, and that Contractor has no claim on such third party payments.

Contractor shall fully cooperate with Medical Facility staff, and the staff of the County's Treasurer-Tax Collector or any County billing and collection contractor, in billing third-party payers and patients for care provided by Contractor hereunder. Such cooperation shall include, but not be limited to the completion of any assignment or re-assignment of rights and the provision of supporting information, including National Practitioner Identification Numbers.

3. ENCOUNTER DATA: Contractor shall ensure that its physicians fully cooperate with MLK MACC in the billing processes which include completing patient Encounter Data, as requested by Administrator. Such Encounter Data shall be substantially similar to the HCFA 1500, the 937P, or other forms requiring comparable Encounter Data.

4. PAYMENT AMOUNT:

A. Clinic Services: County shall compensate Contractor on an hourly basis for physician and optometrist professional services in the Ophthalmology

clinic using the rates set forth in Schedule 1, which is incorporated in to this Exhibit B by reference. Contractor shall exclude from hours claimed under these hourly rates all time spend preparing for, or performing ophthalmologic procedures, which services shall be compensated in accordance with Paragraph 4(B) below. Time associated with post procedure care occurring on the same day as the procedure shall also be excluded. Contractor shall only bill and County will only pay for hours actually worked by physicians; payment will not be made based on scheduled hours.

Regardless of the actual number of hours worked by the physicians and optometrists, County shall not compensate Contractor for more hours by any category of personnel in any month than the maximum number of hours set forth in Schedule 1. However, County, at its sole election, may compensate Contractor for additional hours above the monthly maximum if, in the previous month, Contractor's hours were below the monthly maximum, so long as aggregate paid hours for the two months does not exceed the maximum number of hours for the two months combined.

B. Surgical Procedures: County shall compensate Contractor for ophthalmologic procedures at the rate of One Thousand Dollars (\$1,000) for each separately billable procedure. This rate constitutes payment in full for the preparation for and performance of such procedures, as well as post procedure care occurring on the same day as the procedure. A procedure is considered separately billable if: (1) it is listed in the Common Procedure Terminology

manual as a separate service (i.e. it has its own code), and (2) Medicare pays for the service distinctly from other care.

C. Administrative and Support Services: County shall compensate Contractor for the administrative and support services provided under this Agreement by the Contractor Medical Director, quality improvement assistant, office administrator, and the ophthalmic technicians on an hourly basis using the rates set forth in Schedule 1. County will only pay, and Contractor will only bill County for time related to the direct provision of services. Time associated with availability, travel, meals or other similar non-productive activities shall be excluded.

Regardless of the actual number of hours worked by the administrative and support personnel, County shall not compensate Contractor for more hours by any category of personnel in any month than the maximum number of hours set forth in Schedule 1. However, County, at its sole election, may compensate Contractor for additional hours above the monthly maximum if, in the previous month, Contractor's hours were below the monthly maximum, so long as aggregate paid hours for the two months does not exceed the maximum number of hours for the two months combined.

D. Complete Rates: The rates set forth in Schedule 1 include compensation for employee benefits, taxes, insurance and other employee related expenses, and constitute the complete and exclusive rate of payment for such services.

E. Assurances: MLK MACC Medical Director shall assure that such medical services were indeed provided and that MLK MACC maintains appropriate time records and Encounter Data to reflect the provision of same.

F. Gratuitous Efforts: Contractor agrees that should any physician perform services not requested and specified in Exhibit "A", such services shall be deemed to be a gratuitous effort on the part of Contractor and the physician, and neither party shall have any claim against County for such services.

OPHTHALMOLOGY CLINIC AND SURGICAL SERVICES
THE LOS ANGELES OPHTHALMOLOGY MEDICAL GROUP, INC.

FEBRUARY 1, 2008 THROUGH JANUARY 31, 2010

<u>PERSONNEL/POSITION TITLES</u>	<u>No. of Positions</u>	<u>Hourly Rate*</u>	<u>Maximum Allowed</u>
			<u>Hours Per Month</u>

Clinic Staff:

Clinic Chief @ 21.9653% FTE	1	\$225.00	38.00
Quality Assurance @ 50% FTE	1	36.25	86.50
Ophthalmic Technicians	2	32.50	173.00
Office Administrator	1	35.00	173.00
Total	5		

PHYSICIANS/SPECIALISTS

General Ophthalmology		\$225.00	208.00
Specialists		225.00	134.33
Optometrist		65.00	69.33

SURGICAL PROCEDURES

\$1,000 Per Allowable Procedures

*For Clinic Staff, hourly rates include Payroll Taxes and Employee Benefits with the exception of the Clinic Chief. Payroll Taxes and Employee Benefits not applicable for Clinic Chief.

Ophthalmology Clinic and Surgical Services Agreement.

OPHTHALMOLOGY CLINIC AND SURGICAL SERVICES AGREEMENT

ADDITIONAL PROVISIONS

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ADDITIONAL PROVISIONS

OPHTHALMOLOGY CLINIC AND SURGICAL SERVICES AGREEMENT

1. RECORDS AND AUDITS:

A. Records of Services Rendered: Contractor shall prepare and maintain accurate and complete financial records of its activities and operations as they relate to services provided under this Agreement in accordance with generally accepted accounting principles. Contractor shall also maintain accurate and complete personnel time records and other records of all services provided hereunder by Contractor's referred ophthalmologists. All such records shall include supporting documentation and other information sufficient to fully and accurately reflect Contractor's provision of services hereunder, and all charges billed to County.

All such records shall be retained by Contractor for a minimum period of five (5) years following the expiration or earlier termination of this Agreement. During such five (5) years, as well as during the term of this Agreement, all such records shall be made available by Contractor at a location in Southern California and shall be made available during County's normal business hours to representatives of County's Auditor-Controller and the Department of Health Services for purposes of inspection and audit.

B. Federal Access to Records: If, and to the extent that, Section 1861(v)(1)(I) of the Social Security Act [42 U.S.C. Section 1395(v)(1)(I)] is applicable, Contractor agrees that for a period of five (5) years following the

furnishing of services under this Agreement, Contractor shall maintain and make available, upon written request, to the Secretary of the United States Department of Health and Human Services or the Comptroller General of the United States, or to any of their duly authorized representatives, the contract, books, documents, and records of Contractor which are necessary to verify the nature and extent of the cost of services provided hereunder. Furthermore, if Contractor carries out any of the services provided hereunder through a subcontract with a value or cost of Ten Thousand Dollars (\$10,000) or more over a twelve-month period with a related organization (as that term is defined under Federal law), Contractor agrees that each such subcontract shall provide for such access to the subcontract, books, documents, and records of the subcontractor.

C. Audit Reports: In the event that an audit is conducted of Contractor by a Federal or State auditor, Contractor shall file a copy of each such audit report(s) with County's Auditor-Controller Department within thirty (30) days of receipt thereof unless otherwise provided for under this Agreement, or under applicable State or Federal regulations. To the extent permitted by law, County shall maintain the confidentiality of all such audit report(s).

D. Audit/Compliance Review: In the event County representatives conduct an audit/compliance review of Contractor, Contractor shall fully cooperate with County's representatives. Contractor shall allow County representatives access to all records of services rendered, including personnel time records, and all financial records and reports pertaining to, and required under, this Agreement and shall allow photocopies to be made of these

documents utilizing Contractor's photo-copier, for which County shall reimburse Contractor its customary charge for record copying services, if requested.

Director shall provide Contractor with at least ten (10) working days prior written notice of any audit/compliance review.

County may conduct a statistical audit/compliance review of all claims paid by County during a specified period. The sample shall be determined in accordance with generally accepted auditing standards. An exit conference shall be held following the performance of any such audit/compliance review at which time the results shall be discussed with Contractor. Contractor shall be provided with a copy of any written evaluation report(s).

Contractor shall have the opportunity to review County's findings for Contractor, and Contractor shall have thirty (30) days after receipt of County's audit/compliance review results to provide documentation to the County representatives to resolve audit exceptions. If, at the end of the thirty (30) period there remain audit exceptions which have not been resolved to the satisfaction of County's representatives, then the exception rate found in the audit or sample results shall be applied to the total County payments made to Contractor for all claims paid during the audit/compliance review period to determine Contractor's liability to County.

E. County Audit Settlements: If, at any time during the term of this Agreement or at any time within five (5) years after the expiration or earlier termination of this Agreement, authorized representatives of County conduct an audit of Contractor regarding the services provided to County hereunder and if

such audit finds that County's dollar liability for such services is less than payments made by County to Contractor then Contractor agrees that the difference shall be either: (1) repaid forthwith by Contractor to County by cash payment, or (2) at Director's option, deducted from any further amount due to Contractor from County. If such audit finds that County's dollar liability for services provided hereunder is more than payments made by County to Contractor, then the difference shall be paid forthwith by County to Contractor by cash payment.

F. Failure to Comply: Failure of Contractor to comply with the requirements of this Paragraph shall constitute a material breach of this Agreement upon which County shall give Contractor a written "Notice of Material Breach". If such breach has not been cured within ten (10) business days following the giving of such Notice, then County may, at County's sole discretion, immediately terminate this Agreement pursuant to the provisions of Paragraph 1, TERM AND TERMINATION, in the body of this Agreement. County's failure to exercise this right of termination shall not constitute waiver of such right, and the same may be exercised at any subsequent time.

2. CONFIDENTIALITY: Contractor shall maintain the confidentiality of all records and information, including, but not limited to, billings, County records, and patient records, in accordance with all applicable Federal, State, and local laws, ordinances, regulations, and directives relating to confidentiality. Contractor shall inform all its officers, employees and agents providing services hereunder of the confidentiality provisions of this Agreement. Contractor shall indemnify and hold harmless County, its

officers, employees and agents, from and against any and all loss, damages, liability and expense arising out of any disclosure of such records and information by Contractor, its officers, employees, or agents.

3. NONDISCRIMINATION IN SERVICES: Contractor shall not discriminate in the provision of services hereunder because of race, color, religion, national origin, ancestry, sex, age or physical or mental handicap, in accordance with requirements of Federal and State law. For the purpose of this Paragraph, discrimination in the provision of services may include, but is not limited to, the following: denying any person any service or benefit or the availability of a facility; providing any service, or benefit to any person which is different, or is provided in a different manner or at a different time, from that provided to others; subjecting any person to segregation or separate treatment in any matter related to the receipt of any service; restricting any person in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit; and treating any person differently from others in determining admission, enrollment quota, eligibility, membership or any other requirement or condition which person must meet in order to be provided any service or benefit. Contractor shall take affirmative action to ensure that intended beneficiaries of this Agreement are provided services without regard to race, color, religion, national origin, ancestry, sex, age or physical or mental handicap.

4. NONDISCRIMINATION IN EMPLOYMENT:

A. Contractor certifies and agrees that all persons employed by it, its affiliates, subsidiaries or holding companies are and will be treated equally by it without regard to, and will not be discriminated against because of, race, color,

religion, ancestry, national origin, sex, age or physical or mental handicap, in compliance with all applicable anti-discrimination laws and regulations of the United States of America and the State of California as they now exist or may hereafter be amended.

B. Contractor shall take affirmative action to ensure that qualified applicants are employed, and that employees are treated during employment without regard to, or because of race, color, religion, ancestry, national origin, sex, age or physical or mental handicap, in compliance with all applicable anti-discrimination laws and regulations of the United States of America and the State of California as they now exist or may hereafter be amended. Such action shall include, but is not limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

C. Contractor shall deal with its subcontractors, bidders or vendors without regard to, or because of race, color, religion, ancestry, national origin, sex, age or physical or mental handicap, as required by all applicable anti-discrimination laws and regulations of the United States of America and the State of California as they now exist or may hereafter be amended.

D. Contractor shall allow County representatives access to its employment records during regular business hours to verify compliance with these provisions when so requested by Director. Prior to any such inspection, Contractor may remove personal employee information from such records, which

is protected under the privacy laws of the State of California. To the extent any such information may come into the possession of County during such an inspection, County hereby promises to protect same from disclosure to third parties.

E. If County finds that any of the above provisions have been violated, the same shall constitute a material breach of Agreement upon which County may determine to cancel, terminate, or suspend this Agreement. While County reserves the right to determine independently that the anti-discrimination provisions of this Paragraph have been violated, in addition, a determination by the California Fair Employment Practices Commission or the Federal Equal Opportunity Commission that Contractor has violated Federal or State anti-discrimination laws or regulations shall constitute a finding by County that Contractor has violated anti-discrimination provisions of this Paragraph.

F. The parties agree that in the event Contractor violates the anti-discrimination provisions of this Paragraph, County shall, at its option, be entitled to a sum of Five Hundred Dollars (\$500) per violation or group of such violations investigated, pursuant to Civil Code Section 1671 as liquidated damages.

G. The parties understand and agree that the liquidated damages payable pursuant to Subparagraph F above are meant to compensate County for the costs of each investigation of violation(s) of the anti-discrimination provisions of this Paragraph, and therefore, the parties agree that the basis for assessing liquidated damages for purposes of Subparagraph F above shall be the number of investigative reports submitted to Director, provided that no violation may be

covered in more than one report. Director shall use his best efforts to ensure that violations will be grouped together whenever possible for purposes of investigation.

5. LICENSES, PERMITS, REGISTRATIONS AND CERTIFICATES:

Contractor shall obtain and maintain in effect during the term of this Agreement all appropriate licenses, permits, registrations and certificates required by law for the operation of its business and for the provision of services under this Agreement. Copies of all such applicable licenses, permits, registrations and certifications shall be delivered to County's Department of Health Services, Contracts and Grants Division, 313 North Figueroa Street, Sixth Floor-East, Los Angeles, California 90012, prior to commencing services under this Agreement.

Contractor shall further ensure that all its personnel, including all its physician ophthalmologists and independent contractors, who perform services hereunder obtain and maintain in effect during the term of this Agreement, all licenses, permits, registrations and certificates required by law which are applicable to their performance hereunder. Copies of such licenses, permits, registrations and certifications shall be made available to County upon request.

6. RULES AND REGULATIONS: During the time the Contractor's personnel are at MLK MACC, such persons shall be subject to the rules and regulations of MLK MACC. It is the responsibility of Contractor to acquaint itself and such persons who may provide services hereunder with such rules and regulations. Contractor shall immediately and permanently withdraw any of its personnel from the provision of services hereunder upon receipt of oral or written notice from Director that (i) such

person has violated such rules and regulations, or (ii) such person's actions, while on County premises, may harm County patients. Director shall provide Contractor with a written statement of the facts supporting any such violation or action.

7. STAFF PERFORMANCE WHILE UNDER THE INFLUENCE: Contractor shall not knowingly permit any person to perform services hereunder while under the influence of any alcoholic beverage, medication, narcotic or other substance that might impair his/her physical or mental performance.

8. CONTRACTOR PERFORMANCE DURING CIVIL UNREST OR DISASTER: Contractor recognizes that health care facilities maintained by County, including shelters and relief facilities operated by County during a disaster, provide care essential to the residents of the communities they serve, and that these services are of particular importance at the time of a natural disaster or other similar event, or at the time of a riot, insurrection, civil unrest. Notwithstanding any other provision of this Agreement, Contractor and Contractor's ophthalmologist(s) shall continue to provide services at County Facilities and, if requested to do so by Director, shall also provide services at County operated shelters and relief facilities during any natural disaster or other similar event, riot, insurrection or civil unrest, so long as such performance remains physically possible.

Director shall provide Contractor with an explanation of the services and responsibilities required of Contractor in the event of a disaster or civil unrest.

9. UNLAWFUL SOLICITATION: Contractor shall inform all of its officers, physician ophthalmologists, employees and agents providing services hereunder of the provisions of Article 9 of Chapter 4 of Division 3 (commencing with Section 6150) of the

California Business and Professions Code (i.e., State Bar Act provisions regarding unlawful solicitation as a runner or capper for attorneys) and shall take positive and affirmative steps in its performance hereunder to ensure that there is no violation of said provisions by its officers, physician ophthalmologists, employees and agents.

Contractor agrees that if a patient requests assistance in obtaining the services of an attorney, Contractor, its officers, physician ophthalmologists, employees and agents will refer the patient to the attorney referral service of those bar associations within Los Angeles County that have such a service.

10. CONFLICT OF INTEREST: No County officer or employee whose position in County enables him/her to influence the award or the administration of this Agreement or any competing agreement, and no spouse or economic dependent of such officer or employee, shall be employed in any capacity by Contractor herein, or have any other direct or indirect financial interest in this Agreement.

No officer or employee of Contractor who may financially benefit from the provision of services hereunder shall in any way participate in County's approval, or ongoing evaluation, of such services, or in any way attempt to unlawfully influence County's approval or ongoing evaluation of such services.

Contractor shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Agreement. Contractor warrants that it is not now aware of any facts which create a conflict or interest. If Contractor hereafter becomes aware of any facts which might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure

of such facts to Director. Full written disclosure shall include, without limitation, identification of all persons involved and complete description of all relevant circumstances.

11. COVENANT AGAINST CONTINGENT FEES:

A. Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by Contractor for the purpose of securing business.

B. For breach or violation of this warranty, County shall have the right to terminate this Agreement and, in its sole discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

12. COMPLIANCE WITH APPLICABLE LAW:

A. Contractor shall comply with all Federal, State, and local laws, ordinances, rules, regulations and directives applicable to its performance hereunder. Further, all provisions required thereby to be included in this Agreement are hereby incorporated herein by reference.

B. Contractor shall indemnify and hold harmless County, its officers, employees, and agents, from and against any and all loss, damage, liability or expense resulting from any violation on the part of Contractor, its officers, physician ophthalmologists, employees or agents of such Federal, State or local laws, ordinances, rules, regulations or directives.

13. FAIR LABOR STANDARDS: Contractor shall comply with all applicable provisions of the Federal Fair Labor Standards Act, and shall indemnify, defend and hold harmless County, its officers, employees, and agents from any and all liability including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs and attorneys' fees arising under any wage and hour law including, but not limited to, the Federal Fair Labor Standards Act for services performed by Contractor's physician ophthalmologists or employees for which County may be found jointly or solely liable.

14. EMPLOYMENT ELIGIBILITY VERIFICATION: Contractor warrants that it fully complies with all Federal statutes and regulations regarding employment of aliens and others, and that all its employees and physician ophthalmologists performing services hereunder meet the citizenship or alien status requirements contained in Federal statutes and regulations. Contractor shall obtain, from all covered personnel performing services hereunder, all verification and other documentation of employment eligibility status required by Federal statutes and regulations as they currently exist and as they may be hereafter amended. Contractor shall retain such documentation for all covered personnel for the period prescribed by law. Contractor shall indemnify, defend and hold harmless County, its officers and employees from employer sanctions and any other liability which may be assessed against Contractor or County in connection with any alleged violation of Federal statutes or regulations pertaining to the eligibility for employment of persons performing services under this Agreement.

15. NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT: Contractor shall notify its employees, and shall require each

subcontractor to notify its employees, that they may be eligible for the Federal Earned Income Credit under the Federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice 1015.

16. RESTRICTIONS ON LOBBYING: If any Federal monies are to be used to pay for Contractor's services under this Agreement, Contractor shall comply with all certification and disclosure requirements prescribed by Section 319, Public Law 101-121 (31 United States Code Section 1352) and any implementing regulations, and shall ensure that each of its subcontractors receiving funds provided under this Agreement also fully comply with all such certification and disclosure requirements.

17. COUNTY LOBBYISTS: Contractor and each County lobbyist or County lobbyist firm, as defined in Los Angeles County Code Section 2.160.010, retained by Contractor shall fully comply with the County Lobbyist Ordinance, Los Angeles County Code Chapter 2.160. Failure on the part of Contractor or any County lobbyist or County lobbyist firm retained by Contractor to fully comply with the County Lobbyist Ordinance shall constitute material breach of this Agreement upon which County may immediately terminate or suspend this Agreement.

18. ALTERATION OF TERMS: The body of this Agreement, together with the Exhibits attached hereto, fully expresses all understandings of the parties concerning all matters covered and shall constitute the total Agreement. No addition to, or alteration of, the terms of this Agreement whether by written or verbal understanding of the parties, their officers, physician ophthalmologists, employees or agents shall be valid unless made in the form of a written amendment to this Agreement which is formally approved and executed by the parties.

19. SEVERABILITY: If any provision of this Agreement, including any provision in an exhibit, or the application thereof to any person or circumstance is held invalid, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby.

20. CONTRACTOR'S WILLINGNESS TO CONSIDER COUNTY'S EMPLOYEES FOR EMPLOYMENT: Contractor agrees to receive referrals from County's Department of Human Resources of qualified permanent employees who are targeted for layoff or qualified former employees who have been laid off and are on a re-employment list during the life of this Agreement. Such referred permanent or former County employees shall be given first consideration of employment as Contractor vacancies occur after the implementation and throughout the term of this Agreement.

Notwithstanding this or any other provision of this Agreement, the parties do not in any way intend that any person shall acquire any rights as a third party beneficiary of this Agreement.

21. CONSIDERATION OF COUNTY'S DEPARTMENT OF PUBLIC SOCIAL SERVICES ("DPSS") GREATER AVENUES FOR INDEPENDENCE ("GAIN") PROGRAM OR GENERAL RELIEF OPPORTUNITY FOR WORK ("GROW") PARTICIPANTS FOR EMPLOYMENT: Should Contractor require additional or replacement personnel after the effective date of this Agreement, Contractor shall give consideration for any such employment openings to participants in County's GAIN or GROW program(s), who meet Contractor's minimum qualifications for the open position. For this purpose, consideration shall mean that Contractor will interview qualified candidates. County will refer GAIN/GROW participants by job category to Contractor.

In the event that both laid-off County employees and GAIN/GROW participants are available for hiring, County employees shall be given first priority.

22. COUNTY'S QUALITY ASSURANCE PLAN: Director or his/her agent will evaluate Contractor's performance under this Agreement on not less than an annual basis. Such evaluation will include assessing Contractor's compliance with all contract terms and performance standards. Contractor deficiencies which County determines are severe or continuing and that may place performance of this Agreement in jeopardy if not corrected will be reported to the Board of Supervisors. The report will include improvement/corrective action measures taken by Director and Contractor. If improvement does not occur consistent with the corrective action measures, County may terminate this Agreement or impose other penalties as specified in this Agreement.

23. PROHIBITION AGAINST ASSIGNMENT AND DELEGATION:

A. Except as may be needed to affiliate medical personnel required under this Agreement, Contractor shall not delegate its duties under this Agreement, whether in whole or in part, without the prior written consent of County. Nor shall Contractor assign its rights hereunder, in whole or in part, without such County consent. Any assignment or delegation which does not have such prior County consent shall be null and void. For purposes of this Paragraph, such County consent shall require a written amendment to this Agreement which is formally approved and executed by the parties. Any billings to County by any delegatee or assignee on any claim under this Agreement, absent such County consent, shall not be paid by County. Any payments by County to any delegatee or assignee on any claim under this Agreement, in consequence of any such

County consent, shall reduce dollar for dollar any claims which Contractor may have against County and shall be subject to set-off, recoupment, or other reduction for any claims which County may have against Contractor, whether under this Agreement or otherwise.

B. Shareholders or partners, or both, of Contractor may sell, exchange, assign, divest, or otherwise transfer any interest they may have therein. However, in the event any such sale, exchange, assignment, divestment, or other transfer is effected in such a way as to give majority control of Contractor to any person(s), corporation, partnership, or legal entity other than the majority controlling interest therein at the time of execution of this Agreement, then prior written consent thereof by County's Board of Supervisors shall be required. Any payments by County to Contractor on any claim under this Agreement shall not waive or constitute such County consent. Consent to any such sale, exchange, assignment, divestment, or other transfer shall be refused only if County, in its sole judgment, determines that the transferee(s) is (are) lacking in experience, capability, or financial ability to perform all Agreement services and other work. This in no way limits any County right found elsewhere in this Agreement, including, but not limited to, any right to terminate this Agreement.

C. Any assumption, assignment, delegation, or takeover of any of the Contractor's duties, responsibilities, obligations, or performance of same by any entity other than the Contractor, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever without County's express prior written

approval, shall be a material breach of the Agreement which may result in the termination of the Agreement. In the event of such termination, County shall be entitled to pursue the same remedies against Contractor as it could pursue in the event of default by Contractor.

24. SERVICE DELIVERY SITE - MAINTENANCE STANDARDS: Contractor shall assure that the locations where services are provided under provisions of this Agreement are operated at all times in accordance with County community standards with regard to property maintenance and repair, graffiti abatement, refuse removal, fire safety, landscaping, and in full compliance with all applicable local laws, ordinances, and regulations relating to the property. County's periodic monitoring visits to Contractor's facilities shall include a review of compliance with the provisions of this Paragraph.

25. TERMINATION FOR IMPROPER CONSIDERATION: County may, by written notice to Contractor, immediately terminate the right of Contractor to proceed under this Agreement if it is found that consideration, in any form, was offered or given by Contractor, either directly or through an intermediary, to any County officer, employee, or agent with the intent of securing the Agreement or securing favorable treatment with respect to the award, amendment, or extension of the Agreement, or the making of any determinations with respect to Contractor's performance pursuant to the Agreement. In the event of such termination, County shall be entitled to pursue the same remedies against Contractor as it could pursue in the event of default by Contractor.

Contractor shall immediately report any attempt by a County officer, employee, or agent to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the County Auditor-Controller's Employee Fraud Hotline at (213) 974-0914 or (800) 544-6861.

Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, or tangible gifts.

26. CONTRACTOR'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM: Contractor acknowledges that County has established a goal of ensuring that all individuals who benefit financially from County through County contracts are in compliance with their court-ordered child, family, and spousal support obligations in order to mitigate the economic burden otherwise imposed upon County and its taxpayers.

As required by County's Child Support Compliance Program (County Code Chapter 2.200) and without limiting Contractor's duty under this Agreement to comply with all applicable provisions of law, Contractor warrants that it is now in compliance and shall during the term of this Agreement maintain in compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section 1088.5, and shall implement all lawfully served Wage and Earnings Withholding Orders or Child Support Services Department ("CSSD") Notices of Wage and Earnings Assignment for Child, Family, or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

27. TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN

COMPLIANCE WITH COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM:

Failure of Contractor to maintain compliance with the requirements set forth in the CONTRACTOR'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM Paragraph immediately above, shall constitute default under this Agreement. Without limiting the rights and remedies available to County under any other provision of this Agreement, failure of Contractor to cure such default within ninety (90) calendar days of written notice shall be grounds upon which County may terminate this Agreement pursuant to the TERM AND TERMINATION Paragraph of this Agreement, and pursue debarment of Contractor pursuant to County Code Chapter 2.202.

28. CONTRACTOR'S ACKNOWLEDGMENT OF COUNTY'S COMMITMENT

TO CHILD SUPPORT ENFORCEMENT: Contractor acknowledges that County places a high priority on the enforcement of child support laws and the apprehension of child support evaders. Contractor understands that it is County's policy to encourage all County Contractors to voluntarily post County's "L.A.'s Most Wanted: Delinquent Parents" poster in a prominent position at Contractor's place of business. County's CSSD will supply Contractor with the poster to be used.

29. CONTRACTOR'S EXCLUSION FROM PARTICIPATION IN A

FEDERALLY FUNDED PROGRAM: Contractor hereby warrants that neither it nor any of its staff members is restricted or excluded from providing services under any health care program funded by the Federal government, directly or indirectly, in whole or in part, and that Contractor will notify Director within thirty (30) calendar days in writing of:

(1) any event that would require Contractor or a staff member's mandatory exclusion from participation in a Federally funded health care program; and (2) any exclusionary action taken by any agency of the Federal government against Contractor or one or more staff members barring it or the staff members from participation in a Federally funded health care program, whether such bar is direct or indirect, or whether such bar is in whole or in part.

Contractor shall indemnify and hold County harmless against any and all loss or damage County may suffer arising from any Federal exclusion of Contractor or its staff members from such participation in a Federally funded health care program.

Failure by Contractor to meet the requirements of this Paragraph shall constitute a material breach of contract upon which County may immediately terminate or suspend this Agreement.

30. INTERPRETATION: This Agreement shall be interpreted in accordance with the laws of the State of California.

31. PROHIBITION AGAINST THE RECRUITMENT OF COUNTY EMPLOYEES: Except as may otherwise be expressly stated to the contrary herein, Contractor, and Contractor's employees, officers, agents, physician ophthalmologists, or independent contractors, shall not hire, recruit, attempt to recruit, or cause to be recruited, any County employee to become an employee of Contractor, while Contractor, its employees, officers, agents, physician ophthalmologists, or independent contractors are at a County MLK MACC.

Any such attempt at hiring or recruitment of any County employee by Contractor, its employees, officers, agents, physician ophthalmologists, or independent contractors

shall constitute a material breach of this Agreement upon which County shall immediately terminate this Agreement.

32. CONTRACTOR RESPONSIBILITY AND DEBARMENT:

A. A responsible contractor is a contractor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity, and experience to satisfactorily perform the contract. It is County's policy to conduct business only with responsible contractors.

B. Contractor is hereby notified that, in accordance with Chapter 2.202 of the County Code, if County acquires information concerning the performance of Contractor on this or other contracts which indicates that Contractor is not responsible, County may, in addition to other remedies provided under this Agreement, debar Contractor from bidding or proposing on, or being awarded, and/or performing work on County contracts for a specified period of time not to exceed three (3) years, and terminate any or all existing contracts Contractor may have with County.

C. County may debar Contractor if the Board of Supervisors finds, in its discretion, that Contractor has done any of the following: (1) violated a term of a contract with County or a nonprofit corporation created by County, (2) committed any act or omission which negatively reflects on Contractor's quality, fitness, or capacity to perform a contract with County, any other public entity, or a nonprofit corporation created by County, or engage in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a

lack of business integrity or business honesty, or (4) made or submitted a false claim against County or any other public entity.

D. If there is evidence that Contractor may be subject to debarment, the Department will notify Contractor in writing of the evidence which is the basis for the proposed debarment and will advise Contractor of the scheduled date for a debarment hearing before the Contractor Hearing Board.

E. The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. Contractor and/or Contractor's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a tentative proposed decision, which shall contain a recommendation regarding whether Contractor should be debarred, and, if so, the appropriate length of time of the debarment. Contractor and the Department shall be provided an opportunity to object to the tentative proposed decision prior to its presentation to the Board of Supervisors.

F. After consideration of any objections, or if no objections are submitted, a record of the hearing, the proposed decision, and any other recommendation of the Contractor Hearing Board shall be presented to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.

G. If a Contractor has been debarred for a period longer than five (5) years, that Contractor may, after the debarment has been in effect for at least

five (5) years, submit a written request for review of the debarment determination to reduce the period of debarment or terminate the debarment. The County may, in its discretion, reduce the period of debarment or terminate the debarment if it finds that the Contractor has adequately demonstrated one or more of the following: (1) elimination of the grounds for which the debarment was imposed; (2) a bona fide change in ownership or management; (3) material evidence discovered after debarment was imposed; or (4) any other reason that is in the best interests of the County.

H. The Contractor Hearing Board will consider a request for review of a debarment determination only where (1) the Contractor has been debarred for a period longer than five (5) years; (2) the debarment has been in effect for at least five (5) years; and (3) the request is in writing, states one or more of the grounds for reduction of the debarment period or termination of the debarment, and includes supporting documentation. Upon receiving an appropriate request, the Contractor Hearing Board will provide notice of the hearing on the request. At the hearing, the Contractor Health Board shall conduct a hearing where evidence on the proposed reduction of debarment period or termination of debarment is presented. This hearing shall be conducted and the request for review decided by the Contractor Hearing Board pursuant to the same procedures as for a debarment hearing.

The Contractor Hearing Board's proposed decision shall contain a recommendation on the request to reduce the period of debarment or terminate the debarment. The Contractor Hearing Board shall present its proposed

decision and recommendation to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.

I. These terms shall also apply to any subcontractors of Contractor.

33. COMPLIANCE WITH HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996: The parties acknowledge the existence of the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations ("HIPAA"). Contractor understands and agrees that, as a provider of medical treatment services, it is a "covered entity" under HIPAA and, as such, has obligations with respect to the confidentiality, privacy and security of patients' medical information, and must take certain steps to preserve the confidentiality of this information, both internally and externally, including the training of its staff and the establishment of proper procedures for the release of such information, and the use of appropriate consents and authorizations specified under HIPAA.

The parties acknowledge their separate and independent obligations with respect to HIPAA, and that such obligations relate to transactions and code sets, privacy, and security. Contractor understands and agrees that it is separately and independently responsible for compliance with HIPAA in all these areas and that County has not undertaken any responsibility for compliance on Contractor's behalf. Contractor has not relied, and will not in any way rely, on County for legal advice or other representations with respect to Contractor's obligations under HIPAA, but will independently seek its own counsel and take the necessary measures to comply with the law and its implementing regulations.

Contractor and County understand and agree that each is independently responsible for HIPAA compliance and agree to take all necessary and reasonable actions to comply with the requirements of the HIPAA law and implementing regulations related to transactions and code set, privacy, and security. Each party further agrees to indemnify and hold harmless the other party (including their officers, employees, and agents), for its failure to comply with HIPAA.

34. COMPLIANCE WITH JURY SERVICE PROGRAM:

A. Jury Service Program: This Agreement is subject to the provisions of the County's ordinance entitled Contractor Employee Jury Service ("Jury Service Program") as codified in Sections 2.203.010 through 2.203.090 of the Los Angeles County Code.

B. Written Employee Jury Service Policy:

(1) Unless Contractor has demonstrated to County's satisfaction either that Contractor is not a "contractor" as defined under the Jury Service Program (Section 2.203.020 of the County Code) or that Contractor qualifies for an exception to the Jury Service Program (Section 2.203.070 of the County Code), Contractor shall have and adhere to a written policy that provides that its employees shall receive from Contractor, on an annual basis, no less than five (5) days of regular pay for actual jury service served. Contractor's policy may further provide that employees deposit any fees received for such jury service with Contractor or that Contractor deduct from the employee's regular pay the fee received for jury service.

(2) For purpose of this Paragraph, and as set forth in the Jury Service Program provision of the County Code as described hereinabove:

"Contractor" shall mean a person, partnership, corporation, or other entity, that has a contract with County, or a subcontract with a County contractor, and has received, or will receive, an aggregate sum of Fifty Thousand Dollars (\$50,000) or more in any twelve (12) month period under one (1) or more County contracts or subcontracts; "employee" shall mean any California resident who is a full-time employee of Contractor; and "full-time" shall mean forty (40) hours or more worked per week, or a lesser number of hours, if: 1) the lesser number is a recognized industry standard as determined by County, or 2) Contractor has a long-standing practice that defines the lesser number of hours as full-time.

Full-time employees providing short-term temporary services of ninety (90) days or less within a twelve (12) month period are not considered full-time for purposes of the Jury Service Program. If Contractor uses any subcontractor to perform services for County under this Agreement, the subcontractor shall also be subject to the provisions of this Paragraph. The provisions of this Paragraph shall be inserted into any such subcontract agreement and a copy of the Jury Service Program shall be attached to the agreement.

(3) If Contractor is not required to comply with the Jury Service Program on the effective date of this Agreement, Contractor shall have a continuing obligation to review the applicability of its "exception status" from the Jury

Service Program, and Contractor shall immediately notify County if Contractor at any time either comes within the Jury Service Program's definitions of "contractor", or if Contractor no longer qualifies for an exception to the Jury Service Program. In either event, Contractor shall immediately implement a written policy consistent with the Jury Service Program. County may also require, at any time during the Agreement term, and at its sole discretion, that Contractor demonstrate to County's satisfaction that Contractor either continues to remain outside of the Jury Service Program's definition of "contractor" and/or that Contractor continues to qualify for an exception to the Jury Service Program. Contractor and its subcontractors, if applicable, may demonstrate their exemption, or compliance, with the above subject Jury Service Program by completing a "County of Los Angeles Contractor Employee Jury Service Program Application for Exemption and Certification Form" which should be obtained from, and returned to, Director within ten (10) calendar days before the effective date of this Agreement.

(4) Contractor's violation of this Paragraph of the Agreement may constitute a material breach of this Agreement. In the event of such breach, County may, in its sole discretion, terminate this Agreement and/or bar Contractor from the award of future County contracts for a period of time consistent with the seriousness of the breach.

35. SAFELY SURRENDERED BABY LAW: Contractor shall notify and provide to each of its officers, employees, and agents, and shall require that each of

Contractor's sub-contractors providing services under this Agreement also notify and provide to each of its officers, employees, and agents, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. County's fact sheet is available on the Internet at www.babysafela.org for printing and review purposes. Further, Contractor acknowledges that County places a high priority on the implementation of the Safely Surrendered Baby Law. Contractor understands that it is County's policy to encourage Contractor and all of its subcontractors, providing services under this Agreement, if any, to voluntarily post County's "Safely Surrendered Baby Law" poster in a prominent position at their place of business. County's Department of Children and Family Services will supply Contractor with the poster to be used.

36. USE OF RECYCLED-CONTENT PAPER: Consistent with County's Board of Supervisors policy to reduce the amount of solid waste deposited at County landfills, Contractor agrees to use recycled-content bond paper and paper products to the maximum extent possible in connection with services to be performed by Contractor under this Agreement.

37. NO PAYMENT FOR SERVICES PROVIDED FOLLOWING EXPIRATION/TERMINATION OF AGREEMENT: Contractor shall have no claim against County for payment of any money or reimbursement, of any kind whatsoever, for any service provided by Contractor after the expiration or other termination of this Agreement. Should Contractor receive any such payment it shall immediately notify County and shall immediately repay all such funds to County. Payment by County for services rendered after expiration/termination of this Agreement shall not constitute a

waiver of County's right to recover such payment from Contractor. This provision shall survive the expiration or other termination of this Agreement.

38. COMPLIANCE WITH CIVIL RIGHTS LAWS: Contractor hereby assures that it will comply with all applicable provisions of the Civil Rights Act of 1964, 42 U.S.C. Sections 2000 (e) (1) through 2000 (e) (17), to the end that no person shall, on the grounds of race, creed, color, sex, religion, ancestry, age, condition of physical handicap, marital status, political affiliation, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement or under any project, program, or activity supported by this Agreement.

39. TERMINATION FOR DEFAULT:

A. The County may, by written notice to Contractor, terminate the whole or any part of this Agreement, if, in the judgment of the Director:

- (1) Contractor has materially breached this Agreement;
- (2) Contractor fails to timely provide and/or satisfactorily perform any task, deliverable, service, or other work required either under this Agreement; or
- (3) Contractor fails to demonstrate a high probability of timely fulfillment of performance requirements under this Agreement, or of any obligations of this Agreement and in either case, fails to demonstrate convincing progress toward a cure within five (5) working days (or such longer period as the County may authorize in writing) after receipt of written notice from the County specifying such failure.

B. In the event that the County terminates this Agreement in whole or in part as provided in Sub-paragraph 39A above, the County may procure, upon such terms and in such manner as the County may deem appropriate, goods and services similar to those so terminated. Contractor shall be liable to the County for any and all excess costs incurred by the County, as determined by the County, for such similar goods and services. Contractor shall continue the performance of this Agreement to the extent not terminated under the provisions of this sub-paragraph.

C. Except with respect to defaults of any subcontractor, Contractor shall not be liable for any such excess costs of the type identified in the subparagraph above if its failure to perform this Agreement arises out of causes beyond the control and without the fault or negligence of Contractor. Such causes may include, but are not limited to: acts of God or of the public enemy, acts of the County in either its sovereign or contractual capacity, acts of Federal or State governments in their sovereign capacities, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather, but in every case, the failure to perform must be beyond the control and without the fault or negligence of Contractor. If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both Contractor and subcontractor, and without the fault or negligence of either of them, Contractor shall not be liable for any such excess costs for failure to perform, unless the goods or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit

Contractor to meet the required performance schedule. As used in this Subparagraph 39C, the terms "subcontractor" and "subcontractors" mean subcontractor(s) at any tier.

D. If, after the County has given notice of termination under the provisions of this Sub-paragraph 39C, it is determined by the County that Contractor was not in default under the provisions of this Sub-paragraph 39C, or that the default was excusable under the provisions of Sub-paragraph 39B, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Sub-paragraph 39A.

E. The rights and remedies of the County provided in this Sub-paragraph 39 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

40. CONFLICT OF TERMS: To the extent that any conflict exists between the language of the body of this Agreement and of the language of the exhibits attached hereto, the former shall govern and prevail.